

### **REMARKS**

This responds to the Office Action mailed on November 25, 2008.

Claims 1, 9, and 22 are amended, no claims are canceled, and no claims are added; as a result, claims 1, 9-12, and 15-29 remain pending in this application.

#### **§ 102 Rejection of the Claims**

Claims 1, 9, 21-22 and 28-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Philyaw et al. (U.S. 6,098,106; hereinafter "Philyaw").

It is submitted that the rejection of claim 29 under 35 U.S.C. § 102(e) is improper because the Office Action discusses the elements of claim 29 not with respect to a single reference, but in view of Philyaw and also in view of Levy. It is respectfully requested that he rejection be withdrawn.

Philyaw explains that as the growing number of computer users are connecting to the Internet, many companies are seeking the substantial commercial opportunities presented by such a large user base. For example, one technology which exists allows a TV signal to trigger a computer response in which the consumer will be guided to a personalized web page. The source of the triggering signal may be a TV, video tape recorder, or radio. For example, if a viewer is watching a TV program in which an advertiser offers viewer voting, the advertiser may transmit a unique signal within the television signal which controls a program known as a "browser" on the viewer's computer to automatically display the advertiser's web page. The viewer then simply makes a selection which is then transmitted back to the advertiser. (Philyaw, 1: 18-29.) In order to alleviate the need to maintain a database of URLs of companies that offer the advertized products, Philyaw proposes embedding a URL of an Advertiser Reference Server (ARS) into a broadcasted program. (Philyaw, 2: 1-3.) A special trigger signal located within the transmitted advertiser audio signal triggers proprietary software running on the viewer's computer, which launches a web browser. Coded advertiser information contained within the audio signal is

information to the address of the associated advertiser server that has access to advertiser product information and sends the product information to the viewers' computer. (Philyaw, 5: 8-23.) A message packet used to send the advertiser information (i.e., advertiser product code) to ARS is shown in Figure 4a and includes the product code, the URL of ARS and the URL of the viewer's computer, but does not include any media objects or portions of media objects in general or either audio or video content in particular. In contrast, claim 1, as amended, recites "receiving, at a server system, a portion of the content item ... comprising audio and/or video content." Because the message transmitted to ARS does not include audio or video content, Philyaw fails to disclose the above-quoted operation recited in claim 1.

Claim 1 also recites "determining that the portion of the content item [received at the server system] is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item." The message received at ARS, on the other hand, contains advertiser product information (the product code) that is used to interrogate the ARS database in order to determine the URL of the relevant advertiser product. (Philyaw, 5: 50-60, and Fig. 4a.) Because in Philyaw the message received at ARS is accompanied by the product code that is then used to interrogate a database, Philyaw fails to disclose "determining that the portion of the content item [received at the server system] is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" recited in claim 1.

Because Philyaw does not disclose all features of claim 1, claim 1 and its dependent claims are patentable and should be allowed.

Claim 9, as amended, recites "a receiver to receive a portion of the content item from a client system, the received portion of the content item being distinct from an identifier associated with the content item, the portion of the content item comprising audio and/or video content." Thus, claim 9 is patentable in view of Philyaw and should be allowed for at least the reasons articulated with respect to claim 1.

Claim 22, as amended, recites an operation to "receive, at a server system, a portion of the content item from a client system, the received portion of the content item being distinct from

an identifier associated with the content item a portion of the content item from a client system, the portion of the content item comprising audio and/or video content." Thus, claim 22 is patentable in view of Philyaw and should be allowed for at least the reasons articulated with respect to claim 1.

Regarding claims 21 and 28, it is submitted that routing information embedded in an audio signal (Philyaw, 9: 37-38) is distinct from "audio characteristics" recited in claims 21 and 28. Claims 21 and 28 are thus patentable in view of Philyaw for an additional reason of Philyaw failing to disclose determining "audio characteristics."

§ 103 Rejection of the Claims

Claims 10, 15-19 and 23-26 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw in view of Herz et al. (U.S. Publication No. 2001/0014868; hereinafter "Herz").

Claims 15-19 include the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of their being dependent on claim 1. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 15-19 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 10 and 23-26 include a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item." by virtue of their being dependent on claim 9. Hertz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 10 and 23-26 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw in view of Levy (U.S. 6,505,160), and further in view of Herz.

Claim 11 recites "determining that the media object is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the media object." As discussed above, in Philyaw, the message received at ARS is accompanied by the product code that is then used to interrogate a database. Thus, Philyaw fails to disclose this feature recited in claim 11. Levy discusses transforming media objects into active, connected objects via identifiers embedded into them or their containers (Levy, Abstract) whether disclosed separately or in combination with Philyaw, does not remedy this deficiency of Philyaw. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw and Levy also fails to disclose or suggest this feature. Because Philyaw/Levy/Hertz combination fails to disclose or suggest all features of claim 11, claim 11 and its dependent claim 12 are patentable in view of Philyaw/Levy/Hertz combination and should be allowed.

Claims 20 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw in view of Herz.

Claim 20 includes the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 1. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claim 20 is patentable in view of the Philyaw and Herz combination and should be allowed.

Claim 27 includes a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 9. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claim 27 is patentable in view of the Philyaw and Herz combination and should be allowed.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

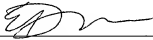
Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. Box 2938

Minneapolis, MN 55402

(408) 278-4052

Date February 25, 2009 By   
Elena B. Dreszer  
Reg. No. 55,128

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 25, 2009.

Name Dawn R. Shaw Signature 